

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER 95-089

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY

WESTERN MICROWAVE, INC.
1271 REAMWOOD AVENUE
SUNNYVALE, SANTA CLARA COUNTY


The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board) finds that:

1. Pursuant to Water Code Section 13304, the Regional Board on May 19, 1993, issued site cleanup requirements (Order No. 93-048) to Western Microwave (WMI) for the site located at 1271 Reamwood Avenue in Sunnyvale. This order was amended by Order No. 93-088A on August 20, 1993. Provisions C.3(b) and C.3(c) of the order (as amended) require WMI to document implementation of interim remedial measures for groundwater and document completion of remedial investigations, respectively, by February 1, 1994. Despite two violation notices from Board staff, WMI failed to comply with these two provisions. Specifically, WMI failed to determine the vertical extent of the pollutants and failed to implement interim remedial measures for groundwater.
2. The Executive Officer issued Complaint No. 95-020 to WMI on January 20, 1995. The Complaint proposed that administrative civil liability be imposed by the Regional Board in the amount of \$107,280 including \$3,180 for staff costs, pursuant to California Water Code Section 13350. The Complaint addressed 347 violation days. Since the Complaint was issued, Western Microwave has not waived the public hearing, or documented completion of the remedial investigation and implementation of the interim remedial measures for groundwater.
3. This Order imposes administrative civil liability of \$600,000 including \$6,420 for recovery of staff costs. The increase in liability, compared to the original amount recommended in the Complaint, is due to three factors: (i) increasing the penalty rate from \$300/day to \$1,337/day, (ii) the additional 97 days of violation between Complaint issuance and the date of adoption of this Order, and (iii) the additional 54 hours of staff time incurred to prepare agenda materials (for March and April).
4. The Board has fully considered the factors set forth for determination of the amount of civil liability set forth in Water Code Section 13327.
5. This action is an order to enforce the laws and regulations administered by the Board. This action is categorically exempt from the provisions of CEQA pursuant to Section 15321 of the Resources Agency Guidelines.

6. On April 19, 1995, the Board conducted a public hearing at which WMI appeared, and evidence was received concerning Western Microwave, Inc.

IT IS HEREBY ORDERED, PURSUANT TO CALIFORNIA WATER CODE SECTION 13350, that Western Microwave, Inc. is civilly liable for this violation and shall pay administrative liability in the amount of \$600,000 for the above violations. The \$100,000 of this liability shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Order. The remaining \$500,000 will be suspended by the Board if a satisfactory settlement agreement is reached by June 21, 1995, between Western Microwave, Inc. and the Board, and if in the Board's opinion the \$500,000 is used for appropriate investigation and remediation of the site.

I, Steven R. Ritchie, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on April 19, 1995.



Steven R. Ritchie
Executive Officer